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32nd plenary meeting
Tuesday, 6 November 2012, 3 p.m.
New York

President: Mr. Jeremić ..... (Serbia)

In the absence of the President, Mr. Charles (Trinidad and Tobago), Vice-President, took the Chair.

The meeting was called to order at 3.15 p.m.

Agenda item 74 (*continued*)

Report of the International Criminal Court

Note by the Secretary-General (A/67/308)

Report by the Secretary-General (A/67/378)

Mr. Ceriani (Uruguay) (*spoke in Spanish*): I would like to thank the President of the International Criminal Court (ICC), Judge Sang-Hyun Song, for having introduced the annual report of the Court (A/67/308). I would also like to take this opportunity to welcome the appointment of Ms. Fatou Bensouda as Prosecutor of the Court in June, and to wish her the greatest of success in her important role.

Uruguay has historically supported the judicial resolution of disputes, in keeping with the provisions of the Charter of the United Nations. Today, we wish to highlight the important activity carried out by the tribunals set up by international mandate to provide justice by trying perpetrators, whomever and wherever they may be. Following the outrageous human rights violations of the 1990s in Rwanda and the former Yugoslavia, and the establishment of the respective ad hoc international tribunals to address those situations, the international community finally came to understand that an international criminal court was necessary to deter the recurrence of such atrocities and, in the case that they did recur, to try those responsible with the authority of both national and international law.

This year, we are celebrating the tenth anniversary of the entry into force of the statute of the International Criminal Court, and with it the beginning of the end of impunity at the international level. In that regard, we welcome the issuing this year of the first judgment by the Court in the case of *The Prosecutor* — which I am happy to identify as the international community — *v. Thomas Lubanga Dyilo*, as well as the conclusion of the appeal, which is now in the sentencing stage. This shows us the important work carried out by the Court, whose results are clear to see. We therefore support the swift ratification of the amendments to the statute of the Court adopted at the Kampala Review Conference.

Our country views with satisfaction the fact that the membership of the Court has grown significantly since the signing of the Rome Treaty. We welcome Guatemala for having recently brought the number of member States to 121. We extend our congratulations likewise to Cape Verde, Maldives, the Philippines and Vanuatu. The total is approaching two thirds of the membership of the United Nations. We hope that this trend will continue and accelerate so that the membership of the two organizations can be equal in the not-too-distant future and that the jurisdiction of the Court can thereby extend fully to all of humankind.

With regard to those cases referred to the Court by the Security Council, we are satisfied that this

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practice has been put to good use, and we support its continuation. We see the impact of armed conflicts and increasing instances of grave human rights violations continue to be of great concern. In turn, we believe that the Security Council should act in a consistent manner when faced with similar situations or cases.

We cannot hope for the Council to feel bound by its prior actions since it is not a judicial but a political organ. However, as the body to which the Charter entrusts the maintenance of international peace and security on behalf of the international community as a whole, the Council should act responsibly and non-selectively in all situations where peace is threatened. We therefore agree with the group of countries that believes it is appropriate to request the Security Council to refer the violations of human rights in Syria to the Court so that their perpetrators can be duly tried, regardless of who they are or whom they represent.

In that context, we recall the proposal of the group, known as the five small nations, included in a draft resolution this year (A/66/L.42/Rev.2), which recommended that the permanent members of the Security Council refrain from using a veto to block Council action aimed at preventing or ending genocide, war crimes and crimes against humanity.

We understand, that in accordance with the provisions of article 115 (b) of the Rome Statute, the United Nations is obliged to contribute to expenses incurred in referrals that the Organization makes through the Security Council, in order to share the financial burden of international criminal justice. Accordingly, we hope that in keeping with article 13 of the Relationship Agreement between the two bodies, we will see the earliest possible conclusion to the arrangements that will enable such cooperation to be implemented.

On that basis, and in conclusion, we believe that the existing cooperation between the Security Council and the Court should be deepened, involving the establishment of some kind of follow-up mechanism for cases referred to the Court by the Council.

Mr. Panin (Russian Federation) (*spoke in Russian*): We thank the President of the International Criminal Court (ICC), Mr. Sang-Hyun Song, for his report (see A/67/308), and we welcome Ms. Fatou Bensouda to her position as Prosecutor of the Court.

Today's meeting coincides with the tenth anniversary of the founding of the ICC. We therefore have more than sufficient grounds for taking initial stock of its activities. Over the past 10 years, the Court has succeeded in earning a certain degree of authority and occupying a unique niche in the system of international bodies. A significant event in its history was the issuing of its first judgment in the case of *The Prosecutor v. Thomas Lubanga Dyilo*.

It has not managed to do so without problems, however, the source of most of which can be traced to the Rome Statute itself, which unfortunately is not a document of compromise. In particular, with respect to the issue of implementing arrest warrants issued by the ICC, the problem of States' cooperation with the Court is at front and centre today. We hope that its difficulties will embolden the ICC and that in such a complex situation it can find the strength to fulfil its mandate effectively and impartially. Clearly, the manner in which it addresses that task will ultimately determine whether it will become a universal body of international criminal justice.

For us, the decisive question relating to the ICC remains the recent incorporation of crimes of aggression into its Statute. We are troubled by the fact that the Kampala compromise does not take fully into account the Charter prerogatives of the Security Council. We feel that it would be extremely undesirable if situations were to arise where the Court would exercise jurisdiction over crimes of aggression in the absence of an appropriate determination by the Security Council with respect to the existence of such a crime on the part of the relevant State.

Mrs. Martínez Lievano (Mexico) (*spoke in Spanish*): Mexico thanks the President of the International Criminal Court for his presentation of its annual report (see A/67/308). We also welcome Ms. Fatou Bensouda, the Prosecutor of the Court, and wish her every success in her work. One hundred and twenty-one States have joined forces towards their shared goal of international criminal justice.

Ten years after the entry into force of the Rome Statute, there is no doubt that the Court has made significant progress in its efforts to fight impunity for international crimes, demonstrated by its first-ever judgment and sentencing this year, as well as the imminent conclusion of other highly important cases. Similarly, the clear progress made in other cases before the Court and the referral of other situations

demonstrate not only the consolidation of the system created by the Statute but also the growing credibility and confidence placed in it.

Despite that progress, the Court's tenth anniversary also offers an opportunity to assess the main challenges it faces. We have called on the remaining States to ratify the Statute as soon as possible in order to solidify that important instrument's universality.

My delegation reiterates that States' cooperation with the Court is fundamental to its successful functioning. Twelve of the 19 arrest warrants issued by the Court are still awaiting execution, despite the fact that in some cases the whereabouts of the individuals is widely known. Mexico laments the lack of cooperation with the Court, implicit and explicit, that some States have displayed, thereby undermining the system's effectiveness and perpetuating unacceptable impunity regarding their crimes. The States parties to the Statute are obliged to comply with such requests, and that obligation also applies to those States that are not party to the Statute that are the subjects of referrals for situations by the Security Council.

Mexico is and has been an active supporter of the Court. We are pleased to announce that this year, as in previous years, Mexico again introduced a resolution in the Organization of American States promoting the ratification and implementation of the Statute, and cooperation with the Court, on the part of the countries of the region. The resolution was adopted by consensus.

Lastly, my delegation would like emphasize an issue of vital importance to the effective consolidation of the Court, which is the allocation of sufficient resources. We cannot expect the Court to respond efficiently to more cases with fewer resources, the lack of which could lead to denial of justice for crimes of enormous significance to the international community. We therefore appeal for the Court to be sufficiently financed to allow it to comply effectively with its mandate. Mexico will make a constructive contribution in this regard at the next Assembly of the States Parties to the Statute.

Mr. Errázuriz (Chile) (*spoke in Spanish*): I take this opportunity to express the Chilean delegation's appreciation to the President of the International Criminal Court, Judge Sang-Hyun Song, for the comprehensive report he presented for the period 1 August 2011 to 31 July 2012 (A/67/308). The heavy responsibilities of the International Criminal Court and its work are worth emphasizing to the international community.

For Chile, the International Criminal Court today represents the most advanced expression of the international criminal justice system and one of the most important initiatives we have seen in recent years. In the domain of the protection of human rights, the Court's creation represented great progress in the fight against impunity. It clearly demonstrates that the States parties and the international community are committed to that path.

Accordingly, Chile firmly supports the work of the International Criminal Court and takes this opportunity to underscore the tenth anniversary of the Rome Statute's entry into force. Likewise, we highly appreciate the first judgment ever issued by the Court, in the case of *The Prosecutor v. Thomas Lubanga Dyilo,* this year. We also highlight the seven investigations under way, which represent the Court's functionality.

We believe it important that, in fulfilling its mandate, the Court receive the material and human resources necessary to its judicial work and important functions. We are convinced that the relationship between the International Criminal Court and the United Nations, through the General Assembly and the Security Council, promotes the rule of law, encourages respect for human rights and contributes to achieving international peace and security, in accordance with international law and the purposes and principles of the Charter of the United Nations.

We take this opportunity to mention an important matter, namely, the link between the Security Council and the International Criminal Court, and specifically the powers of the former to refer situations or defer investigations, pursuant to articles 13 and 16 of the Rome Statute. In that respect, it is our opinion that the Security Council should exercise its power to refer situations or defer investigations on the basis of consistent criteria in order to show that such decisions are not arbitrary. Furthermore, we are convinced that, in addition to backing those decisions, the Council should follow up its referrals to the Court while paying special attention to issues involving non-cooperation. It would also be appropriate, when the Council refers a case to the International Criminal Court, for the General Assembly to evaluate the case to ensure that the Court has the resources necessary to take on such referral.

We reiterate that the cornerstone of the Rome Statute is the principle of complementarity, whereby the essential obligation of national courts is to investigate, prosecute and punish those responsible for the most serious international crimes under the terms of the Rome Statute. Along those lines, the International Criminal Court is called upon to intervene in those cases in which crimes have been committed in States that are not in a position or lack the will to undertake the proposed judicial proceedings. In that regard, we believe that cooperation with the International Criminal Court is a fundamental part of its work. For that reason, at the High-level Meeting on the Rule of Law at the National and International Levels of 24 September (see A/67/PV.3), my country pledged to develop legislation on cooperation with the International Criminal Court.

We appeal to States that have not yet done so to become party to the Rome Statute in order to advance its universality. Nonetheless, we underscore that there are now 121 States parties. We also call upon the States parties to adopt the amendments of the Rome Statute that were adopted at Kampala in 2010. We also note that our country is working towards that goal.

In conclusion, it is timely to reiterate our appreciation for the commendable work of the International Criminal Court, as well as for its valuable contribution to the fight against impunity.

Ms. Intelmann (Estonia): I am speaking in my capacity as President of the Assembly of States Parties to the Rome Statute of the International Criminal Court and as Estonia's Ambassador-at-large. In making this statement, Estonia aligns itself with the statement delivered on behalf of the European Union.

I would like to thank the President of the International Criminal Court for his report on the Court's activities (A/67/308). On 1 July, the Court and its States parties commemorated the tenth anniversary of the entry into force of the Rome Statute. The report reflects just how far the level of the Court's activities has risen during that time, and what an indispensable tool it has become in the fight against the worst crimes under international law: genocide, war crimes and crimes against humanity.

It has been an important year. On 14 March, the Court rendered the first verdict in its history, in the case of *The Prosecutor v. Thomas Lubanga Dyilo*, finding Mr. Lubanga Dyilo guilty of recruiting and using child soldiers and subsequently sentencing him to 14 years of imprisonment. Already, the case has had an impact in the Democratic Republic of the Congo and beyond its borders. The Special Representative of the Secretary-General for Children and Armed Conflict has stated that parties to conflicts as far away from the Democratic Republic of the Congo as Nepal have taken note of the case and adjusted their behaviour for the better.

Although I should note that a number of final appeals are still pending, the Court and States parties are already working together to engage in a lessons-learned exercise to ensure that all measures are taken to make future trials more efficient.

I should also like to note that on 10 July, Trial Chamber I made its first-ever decision on reparations, establishing the principles to apply to the reparations procedure that will now be used to shape the process of granting reparations to Mr. Lubanga's victims.

The International Criminal Court was the first to incorporate an element of reparative justice in its proceedings — it is a key part of what makes the Rome Statute unique. Even in cases such as the present, in which the convicted person has no assets to be used, the Trust Fund for Victims, utilizing States parties' voluntary contributions, can have an impact on the reparations process. The effective implementation of those reparations through the Trust Fund for Victims will be a key step in showing victims that they were right to place their trust in the Court.

As we speak today, there are 121 States parties to the Rome Statute. Since our last meeting on the subject, Vanuatu and Guatemala have joined the family of States parties. Throughout this tenth anniversary year, I have had the pleasure of meeting officials, parliamentarians and representatives of civil society from a number of non-States parties, particularly from the Pacific region and from Africa, including North Africa, in order to encourage them to ratify or accede to the Rome Statute. My message in the meetings has always been the same — the Court's record speaks for itself. It has proved itself to be the most effective international judicial institution in the fight against impunity for the most serious crimes under international law, acting as a court of last resort in numerous situations where national judicial systems have been unwilling or unable to investigate and prosecute.

In 2002, the International Criminal Court was a good idea; in 2012, we see a Court that has been able to

execute that good idea in a professional and independent manner. Few if any of the fears that States had before the entry into force of the Rome Statute have proved themselves true. Instead, joining the Rome Statute has become part of the acquis of international law — a key way for any State to demonstrate its commitment to the fight against impunity in a meaningful way.

I call on all States that have not yet done so to ratify or accede to the Rome Statue.

The Rome Statute is a system built on State cooperation. As the report before us notes, cooperation by States parties is generally very good. Nevertheless, cooperation in perhaps its most crucial form — the arrest and surrender of persons against whom warrants of arrest have been issued by the Court — leaves room for improvement. More than 10 such individuals are currently at large. As was noted by several speakers in the Security Council open debate (see S/PV.6849), cooperation is especially difficult in situations that have been referred to the Court by the Security Council.

Voluntary commitment to the Rome Statute is the driving force behind cooperation; those States compelled by the Security Council to cooperate with the Court have made no such commitment. Especially in those cases, effective follow-up by the Security Council is necessary to ensure that its own resolutions are enforced and that the Court receives the cooperation it requires. In that regard, I should like to point out that the Assembly of States Parties has adopted procedures to follow in cases of non-cooperation, which were activated for the first time this year. The Assembly is also working to assist and advise States on all aspects of cooperation with the Court.

It is crucial for international organizations, including the United Nations, to avoid non-essential contacts with persons against whom warrants of arrest have been issued by the ICC.

The International Criminal Court is a court of last resort. States have the primary responsibility for investigating and prosecuting those who have committed the worst crimes under international law. Indeed, States parties are discussing, within the framework of positive complementarity, the steps they can take to assist one another in fulfilling their primary responsibility. In that matter, interaction with United Nations development actors and civil society is important. The experience of the past 10 years has proved, however, that it does occasionally become necessary for the ICC to step in.

Instances of genocide, war crimes and crimes against humanity should not remain unpunished; neither should the crime of aggression. I am pleased that, this year, the first two States parties have ratified the amendments to the Rome Statute on that crime. My own country, Estonia, has pledged to pursue ratification of the amendments on the crime of aggression and on article 8 by the end of 2013. I call on other States parties to do the same. States newly joining the Rome Statute should consider joining the Statute, including both of the Kampala amendments.

My country remains a steadfast supporter of the International Criminal Court. It fulfils its legal obligations to the Court and supports it politically. We are proud of the Court's achievements over the past 10 years, but it is clear that such success depends on the political support of States Parties. States that have not yet joined the Statute also have many opportunities to support the fight against impunity.

Mr. Motanyane (Lesotho): Allow me at the outset to thank the President of the International Criminal Court (ICC) for the informative and comprehensive report covering the work of the Court over the past year (A/67/308). The report comes at a most befitting time, when the Court is celebrating 10 years of existence. It is an opportunity for us to reflect upon and consolidate the achievements made by the Court in the past decade and to carefully assess prospects for the future.

The conviction that peace and justice are inextricably intertwined has always underpinned the efforts of the United Nations in the area of the maintenance of international peace and security. The adoption of the Convention on the Prevention and Punishment of the Crime of Genocide in 1948, and the creation of ad hoc international criminal tribunals to try perpetrators of the most heinous crimes, are some of the beacons that highlight this truism. Indeed, the creation of the ICC in 1998 was a clear manifestation of the international community's desire to pursue a peaceful and just world.

In our view, the ICC remains a concrete expression of our collective aspiration to ensure justice for victims of atrocities and to end impunity for perpetrators of the most serious crimes through a law-based system. In recent years, we have witnessed the steady growth of political and diplomatic support for the ICC. That is ostensibly a genuine reflection of the international community's increasing rejection of impunity, and evidence that there is a rising tide in favour of the rule of law.

With the accession of Guatemala in April, there are now 121 States parties to the Rome Statute, which is clearly an indication that the ICC has become a thriving and independent judicial body that enjoys even broader support. We welcome the new member to the ICC family, and call on those States not yet party to the Rome Statute to consider joining us in the fight to end impunity.

The report of the ICC on the past year indicates that the workload of the Court has continued to grow. Despite that fact, it is gratifying to note that significant judicial progress was made by the Court during the reporting period. Of particular interest to my delegation is the handing down of the first judgment and sentence of the Court since its creation, in the case of *The Prosecutor v. Thomas Lubanga Dyilo*. In addition, the continuation of investigations and judicial processes in seven other situations, as well as the referral of an eighth matter by a State party, testify to the fact that the Court has indeed entered a new era of justice delivery.

Furthermore, we welcome the following important institutional developments: the swearing-in of Ms. Fatou Bensouda as the first female Prosecutor of the Court, the election of six new judges, and the assumption of office by the new President of the Assembly of States Parties. We are pleased that the process of selecting the candidates for the position of Deputy Prosecutor has produced three eminently qualified candidates. Undoubtedly, the candidate who will be elected by the Assembly of States Parties will be a welcome complement to the Office of the Prosecutor, during the next phase of the Court's development.

We are convinced that in order for the Court to achieve its mandate, it must benefit from the unwavering support and cooperation of the international community and relevant international organizations. That view was reiterated by the General Assembly in September when it adopted a Declaration on the rule of law (resolution 67/1) that, inter alia, recognizes the importance of cooperation with the Court by all States Members of the United Nations.

Lesotho appreciates the difficulties that non-execution of requests for cooperation can have on the ability of the Court to fulfil its mandate. We shall therefore continue to advocate for cooperation by all States parties with the Court. However, full cooperation with the Court will continue to elude us if we do not ensure that it is adequately insulated against politicization. We must guarantee that there is enough protection against politicized prosecution and other abuses. Double standards would degrade the integrity of the Court.

If the faith of the international community in the Court is to be sustained, selective prosecutions must be avoided; charges must be preferred against the mighty and the weak, against the rich and the poor, alike. By the same token, we need to strengthen the checks and balances mechanisms in order to enhance faith in the Court and thereby promote the cooperation and support of all Member States.

The ICC enjoys a special legal relationship with the Security Council. The Council is empowered to refer cases to the Court under the Rome Statute. It also has a right to request, in deserving cases, a stay of proceedings for a certain period of time, for individuals against whom charges have been preferred. That arrangement has encouraged perceptions that the Court is susceptible to abuse by the Council. The only way to thwart such perceptions is for that relationship to be carefully nurtured in a manner that preserves the independence and integrity of the Court. It is only when the Court is truly independent that it will be able to be effective, exercise fairness and enjoy legitimacy.

There is no doubt that an ICC that is not only independent, but also seen to be independent, will encourage more cooperation from all stakeholders and promote the universal ratification of the Rome Statute.

We must never forget that the principle of complementarity lies at the heart of the creation of the ICC. Ideally, it is States themselves that have the primary responsibility to prosecute crimes committed in their territory or by their nationals. The ICC is designed to complement existing national judicial systems and to act as a necessary accountability safety net in situations where States do not fulfil their obligations. As such, it is only in situations where a State is unwilling or for some reason unable to prosecute a matter that recourse should be had to the ICC. There is therefore a need to strengthen national criminal justice systems to competently deal with perpetrators of the most heinous crimes, which will help to alleviate both the workload on the Court and the attendant costs to States parties.

One of the characteristics that make the ICC a sui generis court is that it is the first international criminal court with the power to order individuals to pay reparation to victims. That is an ingenious innovation that must be put to use efficiently. It is the hope of my

delegation that once cases have been completed and those accused have been found guilty, the reparations process will be undertaken without undue delay. That will undoubtedly go a long way towards helping victims' scars to heal even faster.

Allow me to conclude by reiterating Lesotho's firm and long-standing commitment to the integrity of the Rome Statute and to an effective and credible International Criminal Court. A robust international criminal justice system is an ideal that we must achieve and, indeed, the best hope that we can offer to victims of the most atrocious crimes. Let us resolve to further strengthen the ICC in its capacity to effectively implement its mandate.

Ms. Dwarika (South Africa): My delegation congratulates Judge Song on his reappointment as President of the International Criminal Court (ICC). We thank him for his statement (see A/67/PV.29), as well as for the report of the ICC to the United Nations (A/67/308).

Allow me to take the opportunity to congratulate all of the judges who were elected during the most recent session of the Assembly of States Parties to the ICC. We also congratulate Ambassador Intelmann on her assumption of the presidency of the Assembly of States Parties.

It gives us particular pleasure to congratulate Ms. Fatou Bensouda on her election, by consensus, to the position of Chief Prosecutor of the International Criminal Court. We wish her well as she embarks on what we are certain will be a challenging but ultimately successful nine-year term.

Since the delivery of our statement last year under this agenda item (see A/66/PV.44), two new States have become party to the Rome Statute. We welcome Vanuatu and Guatemala to the Rome Statute family and look forward to working closely with them.

Over and above the institutional developments, much has happened in terms of the fight against impunity, in general, and the International Criminal Court in particular. This year, the United Nations has been correctly concerned with promotion of the rule of law. On 19 January, the Security Council held a debate on the rule of law in the maintenance of international peace and security (see S/PV.6705). The presidential statement adopted that day (S/PRST/2012/1) stressed the importance of the fight against impunity in promoting the rule of law and recalled the ICC's significant contribution to the fight against impunity. Similarly, on 24 September, Heads of State and Government adopted a Declaration that recognized "the role of the International Criminal Court in a multilateral system that aims to end impunity and establish the rule of law" (*resolution 67/1, para. 23*). On 17 October the Security Council held a debate (see S/PV.6849) that focused on the rule of law and the role of the ICC in that regard. All of those actions reflect the growing acceptance of the important role played by the ICC in promoting and strengthening of the rule of law.

We have taken note of the important developments in the work of the ICC. We are particularly pleased that the Court has issued its first judgment in the case of *The Prosecutor v. Thomas Lubanga Dyilo*, and has also issued its first judgments on the issue of reparations for victims. We have also noted that the trial in the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui Katanga* has been completed, and we await the judgment of the Court.

My delegation notes with some satisfaction the cooperation among the various organs of the Court, States, international organizations and civil society. Nonetheless, we remain concerned about the high incidence of non-cooperation relating not only to cases of non-execution of outstanding arrest warrants, but also to recent events surrounding the detention of ICC staff members.

As in the past, we have taken note of the situations under preliminary analysis by the Prosecutor. In our previous statements, we have called upon the Office of the Prosecutor to consider these cases, with the requisite urgency, and come to a decision as soon as possible, particularly on those situations that have been pending for a long period of time.

Nonetheless, we do wish to express our concern about the manner in which the decision on Palestine was made. Given the passage of time, developments within the United Nations system, including on the admission of Palestine as a member to the UNESCO and the sheer number of States, including States parties, that have recognized Palestine, we were disappointed by the unwillingness of the Office of the Prosecutor to make a firm decision.

We wish to highlight the importance of strengthening the relationship between the United Nations and the ICC, in accordance with the Relationship Agreement. We note in that regard that when the Security Council

refers a situation to the ICC, it does so on behalf of the United Nations as a whole. We are therefore convinced that the United Nations should contribute financially to the costs of investigations and prosecutions of situations referred by the Council.

In conclusion, the International Criminal Court is an institution designed to create a better world through fighting impunity. We will continue to support the Court so that it can grow in strength.

Mr. Sarki (Nigeria): On behalf of my delegation, I thank Judge Sang-Hyun Song for his participation in the debate on this agenda item and his comprehensive report to the General Assembly.

We congratulate Ms. Fatou Bensouda on her recent election as Chief Prosecutor of the International Criminal Court (ICC) and wish her every success during her tenure. We also extend our appreciation to the Secretary-General for the eighth annual report on the activities of the ICC, contained in document A/67/308, submitted in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court.

We welcome the progress recorded during the reporting period in the trials of individuals, with a view to strengthening international cooperation in the fight against impunity and other serious crimes, such as crimes against humanity. Nigeria welcomes the celebration of the tenth anniversary of the ICC in July. We also note the issuance of 22 warrants of arrests, 16 cases and seven ongoing investigations that are in the pipeline.

This year marks a historic milestone towards ending impunity. We express our appreciation to the President of the Assembly of States Parties, Ambassador Tiina Intelmann of Estonia, for her tremendous work in coordinating all of the efforts to commemorate the anniversary, both within and outside of the Assembly of States Parties.

We note with particular appreciation the considerable increase in the number of States that have become parties to the Rome Statute. There is no doubt that the Court's jurisdiction continues to expand towards universal acceptance, and for that reason we urge those States that have yet to accede to or ratify the treaty to do so without further delay.

As a signatory to the Statute, Nigeria remains committed to the ideals of the ICC, which was established to dispense justice without partiality as to who may be involved in abuse or gross violations of human rights. The objective of the ICC is based on the concept that justice transcends the confines of national boundaries, that impunity must be challenged, and that all are accountable for their actions regardless of status or location. The Court has fulfilled its mandates under trying and sometimes difficult circumstances. Its actions in ensuring that its mandates are effectively discharged are commendable. We believe that the ICC stands for ensuring that the cherished principle of accountability, which helps sustain effective and lasting peace and security, is maintained.

The cooperation of States, international organizations and civil society is vital to the Court's ability to continue to discharge its role, as enshrined in the Rome Statute. To further deepen and strengthen that function, it is imperative that unhindered access for proper investigations, the execution of outstanding warrants, the protection of witnesses, the enforcement of sentences and the surrender of persons indicted for war crimes be complied with expeditiously in order to prevent the future occurrence of crimes. Most importantly, it is essential that contributions be made to the Trust Fund established for the benefit of victims of crimes that fall within the jurisdiction of the Court and their families.

We wish to observe, however, that in order for the International Criminal Court to continue to be effective and enjoy the trust of the international community, its indictment system for war crimes should be independent and non-selective. In that regard, we encourage the ICC's greater engagement with the African Union (AU) in order to harmonize their positions and agree on actions affecting persons indicted in Africa. Rightly, the AU Constitutive Act does not condone impunity. Discussions with the AU would also afford both sides an opportunity to explore ways and means by which the capacities of Member States to fight impunity would be strengthened.

In our collective responsibility for ensuring the credible applicability of the international criminal justice system, we must overcome such challenges as the issues of complementarity, non-cooperation, assistance to victims, reparation and the budget of the Court. Evidence shows that the number of cases referred by States parties and referrals by the Security Council has increased, and those that the Prosecutor of the Court has initiated proprio motu, in accordance with the

Rome Statute, require funding of expenses related to investigations or prosecutions. We take this opportunity to call on all States and the Security Council to consider making voluntary contributions to alleviate the Court's expenses, or to increase their contributions in order to defray such costs. Above all, the cooperation of States that are not parties to the Rome Statute is absolutely necessary. Close cooperation and consultation between the United Nations and the ICC are also indispensable in this context.

Earlier this year, Nigeria acceded to the Rome Statute. In doing so, we were mindful of our international obligations and our commitment to ending impunity and upholding the rule of law. This also demonstrates our willingness to discourage any form of or support for impunity, and recognizes the ICC's important contribution to the fight against impunity for the most serious crimes. In that context, my Government, through its judiciary, has put in place the machinery necessary to end the insurgency of the Boko Haram terrorist group in our country. The Government is already working on investigating and prosecuting any such crimes through appropriate domestic bodies, in accordance with our judicial requirements and standards.

Finally, the election in December 2011 of Nigeria's candidate Chile Eboe-Osuji as a Judge of the ICC gives credence to our commitment to the pursuit of peace and respect for human rights and the rule of law, in Africa and around the world. It is a testament to Nigeria's role in supporting global peace and stability in the comity of nations. We therefore reaffirm our continued support and commitment to the objectives of the International Criminal Court.

Mr. Weisleder (Costa Rica) (*spoke in Spanish*): Costa Rica thanks Judge Song for presenting the report of the International Criminal Court (A/67/308), in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court.

On the tenth anniversary of the Court's creation, which was undoubtedly one of the most important achievements of multilateralism, Costa Rica welcomes the increase in the number of States parties to the Court, and particularly welcomes the fact that the most recent addition came from our Central American region with Guatemala's ratification in April. My country is committed to continuing to work for the universalization and integrity of the Rome Statute, and for the entry into force of the Court's jurisdiction over all the crimes included in the Statute.

We also welcome the specific and detailed reference to the Court in the outcome document of the High-level Meeting on the Rule of Law held on 24 September (resolution 67/1). This is an acknowledgement of its role in combating impunity and an endorsement of the primacy of law and justice.

We are also gratified by the fact that, among the voluntary pledges made by States within the framework of that meeting, a large number — including Costa Rica's — were related to strengthening the International Criminal Court. In that regard, Costa Rica, in keeping with its commitment, has already launched the national approval process for the amendments to the Rome Statute adopted in Kampala in 2010, and will pursue that process with the aim of achieving ratification as soon as possible. We urge other States parties to ratify the amendment to article 8 and the reference to the crime of aggression without delay, with the aim of achieving its entry into force in 2017.

In 2011, Costa Rica ratified the Agreement on Privileges and Immunities of the Court. In view of the serious situation experienced by the Court's officials in June, my delegation wishes to urge those States that have not yet done so to proceed to signing and ratifying the Agreement without delay.

It will be impossible to achieve meaningful results in the fight against impunity as long as we cannot count on the individual and collective support of States, and as long as those States, whether or not they are party to the Rome Statute, have not yet developed their judicial and criminal investigation systems to a level where the principle of complementarity can be effectively implemented.

Another subject that has us very concerned is the repeated failure of some States parties to comply with their clear and compelling responsibilities under the Rome State. What is especially serious is the fact that such failure to comply is reflected in the refusal to execute arrest warrants in force. At present, there are 11 outstanding arrest warrants, four of which were issued seven years ago. There is no valid legal reason for persisting with such behaviour, particularly given the defiance implied in a State party's reception on its territory of individuals who are the subject of such arrest warrants.

Another issue that warrants our full attention is the financial predicament of the Court. While it is true that we are facing a difficult global economic situation, we cannot allow any of the functions of the Court to be undermined by budgetary restrictions. The activities of the Court have increased substantially as a consequence both of the gravity of violations of human rights and dignity, and of greater recognition of its jurisdiction. That is reflected in its operating costs and in the implementation of all its programmes.

For 2013, the Court undertook an exercise aimed at streamlining costs and making more efficient use of its resources, which led to a sensible budget with minimal growth, notwithstanding the fact that it now has to address the situation in Côte d'Ivoire and the new case of Kenya. Costa Rica objects to any proposal that would limit the Court's scope or ability to act. For that reason, we cannot consider any zero-growth proposal in its budget, much less one that would require the Court to absorb the new budget line related to paying the leasehold on its headquarters.

The driving force of the Court should remain the quest for justice, an end to impunity for the worst crimes, and care for victims, without overlooking its outreach and information activities. The strength and quality of concern for those functions of the Court should not be contingent on financial concerns.

With that in mind, my delegation feels that it is especially important to trigger the implementation of article 115(b) of the Rome Statute, pertaining to the economic contribution of the United Nations to the Court, especially with respect to the costs incurred by cases referred by the Security Council. To that end, we must take into account the provisions of article 13 of the Relationship Agreement between the Court and the United Nations of 4 October 2004.

Costa Rica pledges to continue supporting the universalization, independence and integrity of the Court so that, in conjunction with States parties, as provided for in the preamble of the Rome Statute, we can guarantee respect for and compliance with international justice.

Mr. Simonoff (United States of America): We would like to thank President Song for his report (A/67/308) and for his service to the International Criminal Court (ICC).

As we stated last month in the Security Council's open debate on the role of the International Criminal Court (see S/PV.6849), strengthening accountability for those responsible for the worst atrocities remains an important priority for the United States. Although the United States is not a party to the Rome Statute, we recognize that the ICC can have an important role to play in accountability. Moreover, we remain steadfast in our commitment to ensuring appropriate accountability for those responsible for serious violations of human rights and international humanitarian law.

President Obama has emphasized the importance of preventing mass atrocities and genocide as a core national security interest, as well as a core moral responsibility, of the United States. The United States is committed to working with the international community, including through the United Nations, to bring concerted international pressure to bear in order to prevent atrocities and ensure accountability for the perpetrators of those crimes. To that end, we continue to support positive complementarity initiatives by assisting countries in their efforts to develop domestic accountability processes for atrocity crimes.

Accountability and peace begin with Governments taking care of their own people. The ICC, by its nature, is designed to pursue only those accused of bearing the greatest responsibility for the most serious crimes within its jurisdiction when States are not willing or able to investigate or prosecute genuinely. Thus, even when the ICC investigates and prosecutes, it still only serves to complement the work of States conducting national-level prosecutions.

The international community must continue to support rule-of-law capacity-building initiatives to advance transitional justice, including the creation of hybrid structures where appropriate, and must develop a shared approach to recurring issues, such as coordinated and effective protection for witnesses and judicial personnel. From the Democratic Republic of the Congo to Côte d'Ivoire to Cambodia, the United States is supporting efforts to build fair, impartial and capable national justice systems. At the same time, more can be done to strengthen accountability mechanisms at the international level. Particularly as the ad hoc tribunals and courts draw to a close in the coming years, the ICC can become an even more important safeguard against impunity.

We have actively engaged with the ICC Prosecutor and Registrar to consider specific ways in which we can support specific prosecutions already under way and all of the situations currently before the Court. We have

responded positively to a number of informal requests for assistance. We will also continue to work with the ICC to identify practical ways in which we can work to advance our mutual goals, particularly in areas such as information-sharing and witness protection, on a case-by-case basis and consistent with United States policy and laws. We look forward to continuing to engage with States parties and non-party States on those and other shared issues of concern. The international community should remain committed to working towards coordinated efforts both to prevent atrocities before they occur and to provide accountability for those responsible for atrocities that do happen.

Although we as an international community have made progress on both fronts, much work remains. The United States, as a member of this body and a permanent member of the Security Council, remains committed to working in partnership with others to achieve those twin goals. We look forward to our upcoming participation as an observer at meetings of the ICC's Assembly of States Parties in The Hague later this month.

Mr. Bonifaz (Peru) (*spoke in Spanish*): I wish to thank the President of the International Criminal Court (ICC), Judge Sang-Hyun Song, for his interesting presentation on the intensive work of the Court from 1 August 2011 to 31 July 2012.

In the year covered by the report, there were important developments in the work of the Court. First, Guatemala, Cape Verde, Maldives, the Philippines and Vanuatu ratified the Rome Statute, bringing membership to 121 States parties. That is encouraging, but numerous States have yet to ratify or accede to the Statute. For that reason, Peru calls on those States that have yet to do so to ratify or accede to the Statute so that it can enjoy truly universal scope and prevent impunity for crimes of the greatest importance and gravity for the entire international community.

Secondly, the month of July saw the tenth anniversary of the entry into force of the Rome Statute, which was a landmark in the history of the Court and the fight against impunity. In that regard, I note that on that important anniversary, the Union of South American Nations issued a statement through which the Ministers for Foreign Affairs of its member States reiterated, on the occasion of the anniversary, their decided support for the Court and pledged to work to strengthen it.

In October, under Guatemala's presidency, the Security Council held an open debate to address the relationship between the Council and the International Criminal Court for the first time (see S/PV.6849). The statements made during the open debate allowed us to identify important areas in which we must delve deeper in order to strengthen the relationship between the Organization and the International Criminal Court. Peru focused its statement on the following four points: the referrals of situations by the Council to the Prosecutor, pursuant to article 13 (b) of the Rome Statute; the cooperative relationship of the Security Council and Member States with the Court; the financing of referrals; and the amendments to the Rome Statute adopted in Kampala with regard to the crime of aggression. As we indicated on that occasion, Peru favours an evaluation of mechanisms that allow for a comprehensive follow-up on the matters addressed in the open debate.

We must strengthen cooperation between States and the Court so that the latter can achieve its objectives. Unfortunately, the Court does not always enjoy the necessary support in the areas of arrest warrants, identification, freezing of assets, and the protection of victims and witnesses, inter alia. The cooperation of States with regard to arrest warrants in particular is an obligation based on the Statute of the Court and the Charter of the United Nations, which in the case of referrals, is applicable to all — and we reiterate all — States under Chapter VII.

We must also give full force to the Relationship Agreement between the United Nations and the International Criminal Courts, including budgetary matters related to the referral of situations by the Council. We underscore that the Agreement has allowed the Court to undertake important work, disseminate its work and raise the awareness of the international community with regard to its importance. We trust that cooperation will become ever closer and more coordinated. In that way, the Court can receive the support of United Nations bodies and agencies in the discharge of its duties.

The International Criminal Court plays an important role in promoting the rule of law, as it is the only permanent judicial body tasked with investigating and judging those allegedly responsible for the most serious international crimes. Along those lines, the recent Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National

and International Levels (resolution 67/1) recognized that meaningful role within the multilateral system and underscored the importance of States' cooperation with the Court. Moreover, many States have made significant pledges to supporting the work of the Court. It is essential that States express without ambiguity their decided diplomatic support for the fight against impunity.

Lastly, my delegation commends the work of the liaison office of the International Criminal Court in New York, which facilitates coordination between the Court and the United Nations. We also reiterate our willingness to cooperate actively and constructively with the International Criminal Court.

Mr. Adi (Syrian Arab Republic) (*spoke in Arabic*): My country participated actively in the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, which led to the adoption of the Rome Statute in 1998. We signed and ratified the Statute on 29 November 2000.

The Rome Statute was intended to help end impunity for the perpetrators of crimes under the Court's jurisdication: war crimes, genocide, crimes against humanity and aggression. In its preamble, the Statute affirms

> "the Purposes and Principles of the Charter of the United Nations, and in particular that all States shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations".

The preamble also affirms that

> "nothing in this Statute shall be taken as authorizing any State Party to intervene in an armed conflict or in the internal affairs of any State".

Moreover, the Rome Statute reaffirms that the jurisdiction of the Court is established only when the national judicial system fails to exercise its jurisdiction. The Statute also emphasizes the principal and primary role of national jurisdiction in the establishment of justice in the territories and the cases subject to its mandate.

I do not believe that the representatives who participated in the Rome Conference thought that what they aspired to — the codification of international criminal legislation — would one day be used in the service of political and interventionist agendas that have nothing whatsoever to do with ending impunity. And I do not believe that those delegations could have imagined at the time that the Rome Statute would one day be used as a vehicle to overthrow systems of Government or to intervene in the internal affairs of States. None of the jurists who participated in drafting the Rome Statute would have thought that the question of the definition of the crime of aggression would be diluted in the service of the aggressive State and that it would be a matter subject to interpretation, according to the interests of some influential States and their followers. Nor could they have dreamed that States which carry out simultaneously all of those crimes that are subject to the jurisdiction of the Court would exclude themselves or would be excluded from accountability and punishment, and that their conduct would be overlooked out of considerations that are in total contradiction to the principles of justice and equality.

It is a source of concern that some would hide behind the idea of international criminal justice in order to implement political agendas that are far removed from the internationally recognized legal standards and the purposes and principles upon which the United Nations was established. It is also regrettable that some States would mention my country, Syria, in their statements, manipulating this forum, this agenda item and this organ to distort the facts and make unfounded accusations in an attempt to exploit the law and misuse it in the service of a crude policy of intervention in the internal affairs of other States. We would have hoped that those States that claim to care about impunity would themselves be guided by a spirit of international criminal justice and send an unambiguous and unequivocal message to the States and parties behind the crimes being carried out in Syria.

My country is confronting an unprecedented wave of premeditated terrorism and bloody violence. Everybody knows the States and the groups behind those acts. We hear their statements in the United Nations as they brag about human rights, democracy and counter-terrorism. We do not have enough time today to revisit all the details of that wave. The Government of the Syrian Arab Republic has repeatedly explained the details of what is happening in my country, as well as the steps it has taken to restore security, stability and the rule of law to the troubled areas. However, I reaffirm once again that, in spite of all that my country has faced — terrorism, violence, public and

direct incitement against Syria — the Government of Syria remains committed to implementing reforms and serious changes in response to justified popular demands in all fields, including the legal, judicial, social, political and legislative.

I assure the Assembly that the Syrian authorities are complying with all their legal and judicial responsibilities in their efforts to implement the law and hold accountable all those who have violated it, regardless of their position or title. The recently established independent judicial commission is carrying out its work of referring to national courts all those found to have been involved in illegal acts, in order to observe due process while preserving all the rights of the accused and the victims throughout all trial stages.

In conclusion, since this crisis began my country has sought to inform Member States and the Secretariat in detail about the events taking place there. This has been done by means of more than 220 official letters issued as official United Nations documents, covering every aspect of the crisis and the steps taken by the Government, as well as the negative stance assumed by some Member States in order to prolong the crisis and spread further destruction and terrorism in my country.

The Acting President: We have heard the last speaker in the debate on agenda item 74. The General Assembly has thus concluded its consideration of agenda item 74.

The meeting rose at 4.35 p.m.